

Paul J. Labov
Carly S. Everhardt
FOLEY & LARDNER LLP
90 Park Avenue
New York, New York 10016-1314
Telephone: (212) 682-7474
Facsimile: (212) 687-2329
E-mail: plabov@foley.com
E-mail: ceverhardt@foley.com

Erika L. Morabito (admitted *pro hac vice*)
FOLEY & LARDNER LLP
3000 K. Street, N.W., Suite 600
Washington, D.C. 20007-5109
Telephone: (202) 295-5300
E-mail: emorabito@foley.com

*Counsel to Whitebox Asymmetric Partners, LP and
Whitebox Multi-Strategy Partners, LP*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:
SEARS HOLDINGS CORPORATION, *et al.*,
Debtors.¹

Chapter 11

Case No. 18-23538 (RDD)
(Jointly Administered)

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtors' federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC (5554); Sears STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816).

**RESPONSE TO DEBTORS' FIFTH OMNIBUS OBJECTION TO PROOFS OF CLAIM
(RECLASSIFICATION AS GENERAL UNSECURED CLAIMS)**

Whitebox Asymmetric Partners, LP and Whitebox Multi-Strategy Partners, LP
(collectively, "Whitebox") by and through their undersigned counsel, hereby submit this limited
response (the "Response") to the *Debtors' Fifth Omnibus Objection to Proofs of Claim
(Reclassification as General Unsecured Claims)* (the "Objection") [Dkt. No. 5031]. In
furtherance of this Response, Whitebox states as follows:

BACKGROUND

1. The Debtors filed their voluntary chapter 11 petitions on October 15, 2018.
2. Whitebox purchased Claim No. 18127 from CRG Financial LLC (as Assignee of Topet USA Inc.) (the "Topet Claim") and Claim No. 4547 from PeopleShare LLC (the "PeopleShare Claim", collectively with the Topet Claim, the "Whitebox Claims"). The Whitebox Claims both assert that portions of their claims are entitled to 503(b)(9) priority.
3. The Topet Claim was timely filed by CRG Financial LLC as assignee of Topet USA Inc. on April 10, 2019, and is a section 503(b)(9) claim in the amount of \$1,979.28 for goods received by the Debtors within 20 days of filing. The Topet Claim attached proof of delivery of the goods ordered which included combs, clippers, and brushes. The proofs of delivery attached to the Topet Claim indicate that all the goods were received by the Debtors between October 8-10, 2019.
4. The PeopleShare Claim was timely filed by PeopleShare LLC on October 25, 2018 in the amount of \$643,704.43. The PeopleShare Claim asserts that \$92,496.02 of the claim should receive priority under section 503(b)(9) of the Bankruptcy Code.
5. Each claim was subsequently transferred to Whitebox. *See Evidence of Transfer of Claim Transfer Agreements* [Dkt. Nos. 1299 & 3722].

6. In the Objection, the Debtors ask the court to disallow the 503(b)(9) portion of the Topet Claim because “[t]he Claim does not relate to goods received ‘by the Debtors.’” The Debtors further state the court should disallow the PeopleShare Claim because “[t]he Claim does not relate to the receipt of ‘goods.’”

LIMITED RESPONSE

7. Section 503(b)(9) gives claims administrative expenses status when the claim is for “the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.”

8. The Debtors filed for bankruptcy on October 15, 2018. As noted above, the proofs of delivery attached to the Topet Claim state that combs, clippers, and brushes were delivered to the Debtors on October 8 and October 10, 2019. The delivery of these goods were clearly within 20 days of the commencement of the case. Therefore, the Topet Claim is properly classified as a 503(b)(9) claim.

9. In regards to the PeopleShare Claim, Whitebox is currently investigating the relevant contracts to confirm what goods were received by the Debtors, and will amend the PeopleShare Claim to the extent necessary after the investigation.

RESERVATION OF RIGHTS

10. Whitebox reserves any and all rights to supplement or amend this Response and make any other objections to further relief sought by the Debtors, and any rights against the Debtors.

CONCLUSION

WHEREFORE, Whitebox respectfully requests the Court to enter an order denying the relief requested in the Objection as to the Whitebox Claims and allowing the Whitebox Claims as filed.

Dated: New York, New York
September 19, 2019

/s/ Paul J. Labov

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Carly S. Everhardt

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90 Park Avenue

New York, New York 10016-1314

Telephone: (212) 682-7474

Facsimile: (212) 687-2329

E-mail: plabov@foley.com

ceverhardt@foley.com

-and-

Erika L. Morabito (*pro hac vice*)

FOLEY & LARDNER LLP

3000 K. Street, N.W., Suite 600

Washington, D.C. 20007-5109

Telephone: (202) 295-5300

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Chapter 11

Case No. 18-23538 (RDD)
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CERTIFICATE OF SERVICE

I, Paul Labov, certify that I caused a copy of the *Response of Whitebox Asymmetric Partners, LP and Whitebox Multi-Strategy Partners, LP to Debtors' First Omnibus Objection to Claims* to be served upon the parties on September 19, 2019 (i) who receive electronic notifications by operation of the Court's electronic notification system; and (ii) to be served via U.S. mail on September 19, 2019 upon the parties listed below:

Chambers of the Honorable Robert D. Drain
United States Bankruptcy Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Ray C. Schrock, Esq., Jacqueline Marcus, Esq., Garrett A. Fail, Esq., and Sunny Singh, Esq.,
Attorneys for the Debtors
Weil, Gotshal, & Manges LLP
767 Fifth Avenue
New York, NY 10153

Philip C. Dublin, Esq., Ira Dizengoff, Esq., and Sara Lynne Brauner, Esq.
Attorneys for the Official Committee of Unsecured Creditors
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036

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